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March 7, 2001

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FEDERAL COMMUNICATIONS COMMISSION
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VIA HAND DELIVERY

Magalie Roman Salas
Commission Secretary
Federal Communications Commission
Portals II
445 Twelfth Street, S.W., Suite TW-A325
Washington, D.C. 20554

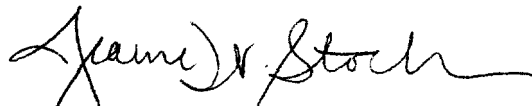
Re: CC Docket No. 99-200; Reply Comments of Allegiance Telecom, Inc.

Dear Secretary Salas:

On behalf of Allegiance Telecom, Inc. ("Allegiance"), enclosed please find an original and four (4) copies of Allegiance's reply comments in the above-referenced docket. Please date-stamp and return the enclosed extra copy. Concurrent with this filing, Allegiance is submitting a copy on diskette to the Common Carrier Bureau's Network Services Division.

Should you have any questions with respect to this matter, please do not hesitate to call Jeanne W. Stockman at (202) 295-8392.

Respectfully submitted,


Jeanne W. Stockman

Enclosure

cc: Carmel Weathers (electronic copy)
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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MAR 7 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Petition for Declaratory Ruling and Request)	CC Docket No. 96-98
for Expedited Action on the July 15, 1997)	
Order of the Pennsylvania Public Utility)	
Commission Regarding Area Codes)	
412, 610, 215, and 717)	

REPLY COMMENTS OF ALLEGIANCE TELECOM, INC.

Allegiance Telecom, Inc. ("Allegiance"), by undersigned counsel, hereby files its Reply Comments regarding the Commission's Second Further Notice of Proposed Rulemaking ("*Second FNPRM*") in the above-referenced proceeding.¹ In these Reply Comments, Allegiance advocates (1) abandoning further consideration of a fee-based number allocation scheme; (2) encouraging and facilitating rate center consolidation ("RCC") where it can be implemented in a revenue-neutral manner; and (3) using traditional enforcement measures, such as monetary forfeitures, rather than withholding numbering resources from carriers for numbering rule violations; and (4) maintaining a federal audit scheme for compliance with numbering rules.

¹ *Numbering Resource Optimization, Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717*, CC Docket Nos. 99-200, 96-98, Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200 ("*Second FNPRM*").

I. THE COMMISSION SHOULD ABANDON FURTHER CONSIDERATION OF A FEE-BASED NUMBER ALLOCATION SCHEME.

As demonstrated by the initial comments, there is near unanimous opposition to imposing a fee-based number allocation scheme. No entity presented a statutory basis that would authorize the Commission to proceed with such a scheme. Aside from the legal infirmities, the commenting parties also reiterate the serious policy issues raised by this proposal.² In sum, a fee-based allocation scheme is inherently anti-competitive, favoring larger carriers over smaller new entrants. No one has proffered any means of balancing this inequity. Until these legal and policy issues are addressed and resolved, Allegiance respectfully requests the Commission to abandon further consideration of a fee-based number allocation scheme.

II. THE COMMISSION SHOULD ENCOURAGE AND FACILITATE REVENUE-NEUTRAL RATE CENTER CONSOLIDATION.

Several state commissions express apprehension to RCC because of the potential increase RCC would cause to consumer rates.³ One particular study was cited by several state commissions as evidence of, in some cases, substantial rate increases resulting from RCC.⁴ Allegiance highlights that the rate increases presented in this study are illustrative “estimates of the increase in local rates that would be required for a revenue-neutral rate center consolidation plan where *all* intraLATA toll was eliminated, *i.e.*, where the entire

² Several issues related to the discriminatory and anti-competitive nature of a fee-based allocation scheme were raised in previous comment cycles on this proposal. *See, e.g.*, Numbering Resource Optimization, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (2000).

³ *See, e.g.*, Further Comments of the California Public Utilities Commission and the People of the State of California, at p. 7.

⁴ *See, e.g.*, Comments of the New Hampshire Public Utilities Commission, at pp. 2-3 (citing a \$7.57 monthly increase).

LATA was recast as a single LATA-wide rate center.”⁵ Allegiance notes that the assumptions in this Ad Hoc Study represent the most extreme form of RCC by consolidating each LATA into a single rate center, and hence overstate the likely cost of RCC on consumers. Allegiance believes that more moderate forms of RCC, particularly focused in metropolitan areas, would have substantially less impact on consumer bills and would have little or no impact on carrier intraLATA toll revenue.⁶

In addition, some states request that the FCC hold a roundtable or workshop to explore RCC implementation.⁷ As the Ad Hoc Study observes, RCC “may be the only truly effective number conservation measure that is capable of actually solving the numbering resource crisis.”⁸ To the extent a workshop or roundtable would increase state consideration and/or implementation of RCC, Allegiance respectfully requests the Commission to proceed with such measures to address RCC issues.

III. IN MOST INSTANCES, WITHHOLDING NUMBERING RESOURCES TO PENALIZE CARRIERS WOULD BE UNDULY HARSH.

The Commission proposes to withhold numbering resources as a penalty for carrier violations of numbering rules.⁹ While many state commissions support this

⁵ “Where Have All the Numbers Gone (Second Edition): Rescuing the North American Numbering Plan from Mismanagement and Premature Exhaust,” prepared by Economics and Technology, Inc. on behalf of The Ad Hoc Telecommunications Users Committee, June 2000, p. 32 (emphasis in original) (“Ad Hoc Study”).

⁶ For example, when rate centers were consolidated in Texas, intraLATA toll revenue was not impacted. See *Number Resource Optimization Working Group Report to North American Numbering Council* (rel. Oct. 20, 1998), § 1.4.2.

⁷ See, e.g., Comments of the Florida Public Service Commission, at p. 7.

⁸ Ad Hoc Study at p. 27.

⁹ *Second FNPRM*, ¶ 154.

proposal,¹⁰ several carriers oppose this measure as being unduly harsh.¹¹ Allegiance agrees that withholding numbering resources would be an unduly harsh penalty for most rule violations. Simply stated, without numbering resources, carriers are foreclosed from entering or competing in the marketplace. This could have a substantial, possibly even irreparable, adverse impact on a carrier's core business and is a disproportionate penalty for most rule violations. Because of the potentially severe consequences of withholding numbering resources, Allegiance submits that traditional enforcement tools such as monetary forfeitures would be more appropriate penalties in most instances. Allegiance notes that, in the event of repeated or egregious violations, withholding numbering resources from a carrier may be warranted, so long as appropriate procedural safeguards are observed.

On a related matter, for the above reasons Allegiance also opposes the Commission's tentative conclusion to extend such liability to related carriers.¹² Moreover, Allegiance agrees with commenters that question whether the Commission has the authority to penalize carriers for related carriers' rule violations.¹³ The applicable statutes are not sufficiently broad to authorize imposition of penalties upon any carrier (or person) other than the carrier (or person) that violates a Commission rule. Thus, Allegiance urges the Commission to reject this tentative conclusion.

¹⁰ See, e.g., Comments of the New York State Department of Public Service, at pp. 5-6.

¹¹ See, e.g., Comments of Voicestream Wireless Corporation, at pp. 11-13.

¹² *Second FNPRM* ¶ 150.

¹³ See, e.g., Comments of Voicestream Wireless Corporation at p. 13 (citing 47 U.S.C. §§ 501-503).

IV. NUMBERING AUDITS SHOULD REMAIN AT THE FEDERAL LEVEL.

In the *Second FNPRM*, the Commission invites comment on whether state commissions should be given independent authority to conduct “for cause” and random audits in lieu of or in addition to the national audit scheme.¹⁴ Allegiance opposes delegating independent authority to the states because it is unnecessary and potentially burdensome to carriers. States are authorized to participate in federal “for cause” audits, and can trigger “for cause” audits of carriers if they observe anomalies or inconsistencies in reported data that may warrant further examination.¹⁵ Thus, states are already authorized to play an important participatory role in the federal audit scheme, and expanded state audit authority seems unwarranted. Moreover, if states are given independent audit authority in this proceeding, those audits may use different standards than federal audits and may be duplicative. Allegiance is concerned this would create an undue burden to carriers, particularly those like Allegiance that operate in multiple states. Accordingly, Allegiance supports maintaining a federally-administered audit scheme.

V. CONCLUSION

For the foregoing reasons, Allegiance urges the Commission (1) to abandon further consideration of a fee-based number allocation scheme; (2) to facilitate revenue-neutral implementation of RCC; (3) to use traditional enforcement measures such as monetary forfeitures, instead of withholding numbering resources, to penalize carriers for noncompliance with numbering rules; (4) to reject its tentative conclusion to hold related

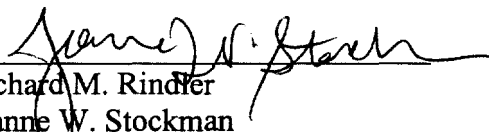
¹⁴ *Second FNPRM* ¶ 155.

¹⁵ *Second FNPRM* ¶¶ 86-87.

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carriers liable for other carrier's rule violations; and (5) to maintain a federally-administered audit scheme.

Respectfully submitted,


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Dated: March 7, 2001

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